



Ontario

Ministry of
Consumer and
Commercial
Relations

Property
Rights
Division

BULLETIN NO. 74083

DATE: DECEMBER 31, 1974

TO:
ALL LAND REGISTRARSTHE REGISTRY ACT R.S.O. 1970
C. 409 RE: PART III

REGISTRATION OF NOTICES

Part III of The Registry Act (Investigation of Titles) provides that a person who wishes to preserve his interest under an instrument that has been registered for 40 years must register a notice in accordance with that Part.

Notices have been registered during the past, purportedly under these provisions, not to preserve interests that would otherwise expire, but instead of registering the instruments to which they relate.

On more than one occasion solicitors acting for prospective purchasers have complained that notices of unregistered interest have been improperly registered, and that in such a case the registration of a notice could result in the inability of the vendor to satisfy the purchaser with regard to the "cloud on title". In our opinion, this practice is not authorized and should be discontinued forthwith as it amounts to the registration of a memorial.

Prior to the "Registration of Titles (Upper Canada) Act" of 1865, memorials were registered instead of the original instruments. Section 53 of that Act which eventually became section 22(2) of The Registry Act, R.S.O. 1970, C.409, provides that registration is to be made by delivering the instrument to and by depositing it with the land registrar. This means that the original executed instrument (or an executed duplicate or other original part) must be registered instead of another document which may be called either a "memorial" or "notice".

For authorized forms of Notices, see The Registry Act R.S.O. 1970, C.409, Section 22(7) and (8).

Richard E. Priddle
Director of Land Registration

ALB/l.s.